

REMARKS

1. In response to the Office Action mailed December 20, 2002, Applicants respectfully request reconsideration. Claims 1-44 were originally presented for examination in this application. All claims were rejected in the outstanding office action. By the foregoing amendments, claims have been amended. No claims have been canceled or added. Thus, upon entry of this paper, claims 1-44 will be pending in this application. Based on the following Remarks, Applicants respectfully request that all outstanding objections and rejections be reconsidered, and that they be withdrawn.

Rejections Under 35 Under U.S.C. §103(a)

2. The Examiner has rejected claims 1-14, 17-18, 20-24, 29-31, 33-34 and 37-38 under 35 USC 103(a) as being unpatentable over U.S. Patent No. 5,832,503 to Malik *et al.* (hereinafter "Malik") in view of U.S. Patent No. 6,308,170 to Balaban (hereinafter "Balaban"). The Examiner asserts that Malik substantially teaches Applicants' invention as recited in, for example, claim 1. The Examiner acknowledges, however, that Malik fails to teach the values are related to the use of a probe array, and turns to Balaban for this teaching. The Examiner takes the unsupported position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Balaban into the Malik device and that such a modification would result in Applicants' invention as recited in independent claim 1. The proposed motivation for such a modification to the teachings of Malik is that "by utilizing the probe array values that collect from the conducted experiment would allow the system to fill the data in the experiment template." (*See*, Office Action, page 3, first paragraph.)

3. Applicants have amended independent claims 1, 20 and 29 to more clearly recite Applicants' invention. Taking claim 1 as an example, the claim, as amended, now recites:

1. A method for managing biological experiment information comprising the steps of:
 - (a) providing one or more identifiers related to the use of a probe array;
 - (b) receiving a specification of an attribute for at least one of the one or more identifiers;
 - (c) generating a data template including at least one of the one or more identifiers, wherein the data template is configured to receive a value for each at least one identifier which represents the attribute specified for that identifier for the biological experiment; and
 - (d) receiving by the data template a value for the at least one identifier in accordance with the attribute specified for the identifier.

(See, amended claim 1, above.)

Claim 1, as amended, is patentable over Malik taken alone or in combination with Balaban.

4. Malik is directed to monitoring parameters that govern the operational characteristics of a network device. A configuration manager 18 obtains the values of certain attributes (that is, data which define the characteristics of the network device being modeled) in a desired configuration. The configuration manager then allows the system administrator to use the information to manage the network device. For example, the system administrator may create new configurations to devices anywhere on the network, and then verify whether those configurations have changed.

5. Malik teaches the use of templates for generating configuration records of network devices of a selected model. A template is a list of attributes for a device of a certain model type. When creating a template, the configuration manager provides the user with a list of all readable/writable and non-shared attributes for a model type that includes the specific device. The user then selects the attributes needed for the template, which depend on the purpose of the template. The configuration manager then captures the values of the attributes listed in the template by retrieving the values from the model. The template functions as a filter,

blocking unwanted attributes and captures the values of those attributes found in the template.

6. There is no disclosure, teaching or suggestion in Malik to provide a method for managing biological experiment information. Malik is silent with regard to all elements of the claimed method, including steps (a) and (b) providing ... identifiers related to the use of a probe array and receiving a specification of an attribute for one of the identifiers. Nor is there any disclosure, teaching or suggestion to generate a data template including at least one identifier, wherein the data template is configured to receive a value for each at least one identifier which represents the attribute specified for that identifier for the biological experiment, nor step (d) for receiving by the data template a value for the at least one identifier in accordance with the attribute specified for the identifier.

7. The Examiner's reliance on Balaban for these teachings is unsupported by the art of record. It is true that Balaban serves as evidence that "values are collected from [a] probe array" as asserted by the Examiner. However, so much more is needed to support a Section 103 rejection based on the combination of Malik and Balaban. There is no motivation provided in Balaban (and certainly in Malik since Malik is directed to network management) of a need for providing a method for managing biological experimental information. The Examiner's stated rationale is that "by utilizing the probe array values that collect from the conducted experiment would allow the system to fill the data in the experiment template." This proposed motivation is unclear and unsupported by the art of record. There is no discussion of needing to manage the experimental information in Balaban. Even if there was such a suggestion, it would not necessarily direct one of ordinary skill in the art to derive Applicants' invention as recited in independent claim 1.

8. Applicants request that should the Examiner maintain this rejection, the Examiner clearly explain wherein the art of record the basis for the suggestion to combine the references can be found. In no such support can be identified and the Examiner continues to rely on facts outside the record of this application in support of the notion that recited features of Applicant's invention are taught or suggested in the prior art, then Applicants

respectfully request that the Examiner take official notice that such specific claim limitations are well-known and provide an Affidavit of such in accordance with MPEP 2144.03.

9. Thus, for at least the reasons set out above, the only conclusion that can be drawn, based on the record of this application, is that the suggestion forming the basis for the Examiner's otherwise factually unsupported conclusion must have come from Applicants' own novel disclosure; that is, they are based on impermissible hindsight. It is too well settled for citation that Applicants' own novel disclosure cannot be used to supply the teaching or suggestion that is missing from the known art.

10. Accordingly, Applicants respectfully assert that no legitimate rationale for modifying Malik, let alone that it be modified as suggested by the Examiner has been set forth by the Examiner. For these reasons alone, Applicants respectfully request that the rejection under Section 103 of independent claims 1, 20 and 29 be reconsidered and withdrawn.

11. The Examiner rejected claims 39-40 and 44 under 35 U.S.C. 103(a) as being unpatentable over Malik in view of U.S. Patent No. 4,868,785 to Jordon *et al.* Here, the examiner asserts that Malik substantially teaches the independent claims. The Examiner, acknowledging that Malik fails to teach an experiment manager as claimed, asserts that Jordon teaches an experiment manager for collecting data from data samples. The Examiner asserts that it would have been obvious to combine the teaches of Malik and Jordon because the resulting combination "would allow the system manage the collected data for the user when conducting the biological experiment." (*See*, Office Action , page 13, first paragraph.)

12. Claim 39 is directed to a "computer implemented system for managing information of probe array experiments, comprising ...a data template generator ...[that] ... generates at least one user-defined data template and stores the user-defined data template on the computer-readable storage medium, each user-defined data template defining attributes of a set of experiment identifiers, a data template being selected from the at least one user-defined data template by a user using the experiment manager, experiment identifiers being inputted using the experiment manager according to the selected data template, the inputted experiment identifiers being stored in the database as an experiment information file." Claim 44 has a similar limitation.

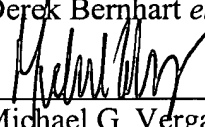
13. Jordan is directed to a system for controlling electronic instruments such as test and measurement equipment, and was cited for the proposition of teaching an experiment manager. However, as with Malik, Jordan is not directed in any way to biological experiments and managing data resulting from such experiments. Thus, Jordan does not provide that which is missing from Malik. It follows then, that the combination of Malik and Jordan fail to disclose, teach or suggest Applicants' invention as recited in independent claims 39 and 44. Therefore, Applicants respectfully assert that, for the reasons described above, independent claims 39 and 44 are patentable over the art of record.

14. The dependent claims depend directly or indirectly from their respective base claim and are allowable for at least the same reasons as those noted above. Further, Applicants submit that each of these dependent claims are also patentable in and of themselves because they each recite features that are not anticipated nor rendered obvious by the art of record.

CONCLUSIONS

15. In view of the foregoing Amendments, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after entering this paper into the record, that the application is not in condition for allowance, the Examiner is requested to call the Applicants' representative at the number provided below.

Respectfully submitted,
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